

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner has restricted (and withdrawn) newly added claims 45-49 and 51-53 as not being directed to the invention originally claimed. Thus, only claims 44 and 50 are pending. With regard to claims 45-49 and 51-53, the same have been canceled, thereby rendering the rejections thereof moot. Applicants reserve the right to file one or more continuing applications directed to the subject matter of canceled claims 45-49 and 51-53.

In the Official Action, the Examiner rejects claim 44 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,540,433 to Brockman (hereinafter “Brockman”) and under 35 U.S.C. 102(e) as being anticipated by either U.S. Patent No. 6,604,980 to Jurmain et al., (hereinafter “Jurmain”) or U.S. Patent No. 6,640,355 to Samide (hereinafter “Samide”).

Additionally, the Examiner rejects claim 50 under 35 U.S.C. § 103(a) as being unpatentable over Samide in view of either U.S. Patent No. 4,445,235 to Slover et al., (hereinafter “Slover”) or U.S. Patent No. 4,309,782 to Paulin (hereinafter “Paulin”). Lastly, the Examiner rejects claim 50 under 35 U.S.C. § 103(a) as being unpatentable over Brockman in view of either Slover or Paulin.

In response, independent claim 44 has been amended to clarify its distinguishing features. Specifically, claim 44 has been amended to recite a medical capsule retrieval device comprising:

a curvable handle for adapting to a shape of a portion of a toilet bowl; and
a catching unit for catching a medical capsule discharged from within a human body, the catching unit being connected with one end of the handle and having a

size to allow covering a drain hole of the toilet bowl,
wherein

the catching unit includes a magnet for magnetically
attracting one of a magnetic material and a magnet within
the medical capsule; and

the catching unit is a net for retrieving or catching
the medical capsule, and at least a part of the net for
retrieving or catching the capsule is a magnet or a magnetic
material.

The amendment to claim 44 is fully supported in the original disclosure, such as at pages 17 and 18 of the specification and Figures 5-7 of the Drawings. Thus, no new matter has been introduced into the disclosure by way of the present amendment to independent claim 44. Further, the amendment to claim 1 is at least directed to the species previously elected (e.g., Species III, Figures 5-7) or generic thereto.

Turning now to the prior art, Brockman discloses a medical strainer device (20) including a catching portion (24) serving as a filtration new (36). Jurmain discloses a diaper for an infant. Samide discloses a net to be attached to a toilet bowl (See Figures 1 and 3). Slover discloses a bag for sealing a sample together with a catching portion of a sample retriever. Paulin discloses an envelope (12) for sealing a sample together with a catching portion (46) of a sample-retrieving device (16).

However, none of the references disclose or suggest the features now recited in claim 44, such as the curvable handle, which can be adapted to a shape of a portion of a toilet bowl.

Applicants further submit that the device recited in claim 44 results in advantages not disclosed or contemplated by the prior art. Namely, at least by way of the curvable handle, any toilet bowl is selectable to attach the medical capsule retrieval device. That is, the medical capsule retrieval device can be attached to toilet bowls having various

shapes. Although Figure 4 of Samide illustrates an arm (13) including elements 13a and 44, such arm is not disclosed or suggested as being curvable.

With regard to the rejection of claim 44 under 35 U.S.C. §§ 102(b) and 102(e), a medial capsule retrieval device having the features discussed above and as recited in independent claim 44, is nowhere disclosed in either Brockman, Jurmain or Samide. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 44 is not anticipated by either Brockman, Jurmain or Samide. Accordingly, independent claim 44 patentably distinguishes over each of Brockman, Jurmain and Samide and is allowable. Consequently, the Examiner is respectfully requested to withdraw the rejection of claim 44 under 35 U.S.C. § 102(b) and 102(e).

With regard to the rejections of claim 50 under 35 U.S.C. § 103(a), since independent claim 44 patentably distinguishes over the prior art and is allowable, claim 50 is at least allowable therewith because it depends from an allowable base claim. Consequently, the Examiner is respectfully requested to withdraw the rejections of claim 50 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,

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